

CHATTANOOGA CITY CHARTER

Title 12

PLANNING, ZONING AND DEVELOPMENT

- Ch. I. Planning, §§ 12.1 – 12.20
- Ch. II. Zoning, §§ 12.21 – 12.37
- Ch. III. Plats And Subdivisions, §§ 12.38 – 12.39

CHAPTER I. PLANNING¹

Sec. 12.1. Commission authorized.

The legislative body of each incorporated municipality having a population of not less than 50,000 nor more than 70,000 inhabitants by the federal census of 1920, or by any subsequent federal census, is hereby authorized and empowered to create by ordinance a city planning commission for such municipality. (Priv. Acts 1923, Ch. 397, § 1)

Sec. 12.2. Membership of commission; terms; filling vacancies; compensation.

Such city planning commission shall consist of not less than seven (7) nor more than fifteen (15) citizen members, to be appointed by the mayor, by and with the consent of the legislative body of the municipality, and six (6) members *ex officio*. The mayor, four (4) members of the legislative body of the municipality, to be selected by it, and the city engineer shall be *ex officio* members of said city planning commission, and in addition there shall be a secretary, likewise appointed by the mayor, who shall have custody of the books and records of the commission, but shall have no vote. The citizen members of the city planning commission first appointed shall be designated by the mayor in groups as nearly equal in numbers as may be, the group members to serve respectively for terms of one year, two (2) years, and three (3) years. Thereafter each citizen member shall be appointed for a term of three (3) years. Vacancies shall be filled by appointment for the unexpired term only. Members of such commission, and the secretary, shall serve without compensation, but the legislative body of the municipality may make appropriation to cover the actual, necessary and reasonable expenses of said commission, said appropriation to be made after the submission to the legislative body by said commission of its budget, as provided for in Section 9 [section 12.9] hereof. (Priv. Acts 1923, Ch. 397, § 2)

Sec. 12.3. Meetings; officers; quorum; record of proceedings.

The city planning commission shall meet at least once a month. The commission by majority vote shall select one member as chairman and another as vice-chairman, each of whom shall serve for one year and until a successor has been elected. Special meetings may be called

¹State law reference-Municipal planning commissions generally, T.C.A. §§ 13-4-101 et seq.

PLANNING, ZONING AND DEVELOPMENT

at any time by the chairman. A majority of the commission shall constitute a quorum for the transaction of business. The commission shall constitute a quorum for the transaction of business. The commission shall cause a proper record to be kept of its proceedings. (Priv. Acts 1923, Ch. 397, § 3)

Sec. 12.4. Duties generally.

It shall be a duty of the city planning commission to collect data and to keep itself informed as to the best practices, and the advancement made generally, in the art of city planning to the end that it may be qualified to act on matters that affect the present and future movement of traffic, the convenience and the safety of persons and property, the health, the recreation and the general welfare and amenities and all other needs of the municipality which are dependent upon the city plan. (Priv. Acts 1923, Ch. 397, § 4)

Sec. 12.5. Plans and recommendations required.

With a view to the systematic planning of such city, the city planning commission shall have power and it shall be its duty to make plans and maps of the whole or any portion of said municipality and of any land outside which, in the opinion of the city planning commission, bears relation to or affects its future growth and expansion, and to make changes in such plans or maps when advisable. Such plans or maps shall show the commission's recommendations for new streets, alleys, ways, viaducts, subways, parkways, parks, playgrounds, or any other public grounds or public improvements; and for the removal, relocation, widening, or extension of such public grounds or works then existing. Such plans and maps with the commission's recommendation shall be submitted to the mayor and legislative body of such municipality from time to time, but said commission shall in any event transmit to the mayor and legislative body thereof at least once every twelve (12) months, an annual report of its activities, with maps and plans and its specific recommendations concerning the location and development of streets, transportation and communication facilities and other public improvements and future projects to be undertaken.

The commission shall have authority to recommend provisions for the preservation and care of historical landmarks, for the control of the design and location of statuary, and other works of art which are, or may become the property of the municipality, and for the removal, relocation, and alteration of such works belonging to the municipality, and for the design and location of harbors, bridges, viaducts, street fixtures and other public structures and appurtenances. (Priv. Acts 1923, Ch. 397, § 5)

Sec. 12.6. Repealed. (Ord. No. 11309, §1, 08-22-02)

Editor's note-The repealed section dealt with approval of public buildings, improvements, facilities.

CHATTANOOGA CITY CHARTER

Sec. 12.7. Approval of plans, plots, dedications, utilities.

All plans, plots, or replots of land hereafter made, that shall be laid out in building lots, and streets, alleys, or other portions of the same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, located within the city limits or for a distance of three (3) miles outside thereof, shall be submitted to the city planning commission for approval; provided, however, that in case of its disapproval, the city planning commission shall communicate its reasons for disapproval to the legislative body of the municipality, and thereupon by majority vote of such legislative body it shall have the power of overruling such disapproval. The disapproval of any such plans by the said mayor and legislative body shall be deemed a refusal of the proposed dedication shown thereupon; its approval shall be deemed an acceptance of the proposed dedication, but shall not impose any duty upon the city as to the maintenance or improvement of such dedicated parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement.

Such municipality shall lay no sewer, water, or gas main or pipes, or make any other improvement within such an area for the use of purchasers or owners, nor shall any permit for connection with or other use of any such improvement already existing be given to any such purchasers or owners until such plan has been approved as aforesaid, or until the lapse of sixty (60) days after said plan shall have been submitted for approval without action either approving or disapproving the same.

Where the jurisdictional limit of three (3) miles outside the city limits, as provided in this section, may conflict with a zone of similar character connected with another city, the jurisdiction of said commission shall extend only to the point equidistant between the city limits and the limits of such adjacent municipality. (Priv. Acts 1923, Ch. 397, § 7)

Sec. 12.8. Preparation of zoning plan.

The city council, for the purpose of promoting the public health, safety, morals, or the general welfare of said city, may authorize the city planning commission to prepare a plan for regulating and restricting the height, number of stories, and size of the buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and to give it such authority as it may be authorized to do by law. (Priv. Acts 1923, Ch. 397, § 8)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 12.9. Employment of professional clerical assistance.

The mayor of such municipality, upon the recommendation of the city planning commission, and by and with the consent of the legislative body of such municipality, may contract for the services of architects, landscape architects and engineers, and any other

PLANNING, ZONING AND DEVELOPMENT

professional services necessary to carry out the purposes of this Act, or any other duties entrusted to this commission by law, or to assist in carrying out the plans and projects recommended by the said commission, and said commission may be given power to appoint such clerks, draftsmen, and other subordinates as it shall deem necessary, within the amounts appropriated by the city. (Priv. Acts 1923, Ch. 397, § 9)

Sec. 12.10. Budgets of commission.

The city planning commission shall annually submit to the mayor and city council of Chattanooga, its budget for the ensuing fiscal year, itemizing the proposed expenditures and their purposes. The city council shall thereupon consider said budget and make such allowances to the city planning commission as it shall deem necessary, the expenditures for such services and employments to be within the amounts appropriated by the city. (Priv. Acts 1923, Ch. 397, § 9)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Secs. 12.11 -- 12.20. Reserved.

CHAPTER II. ZONING²

Sec. 12.21. Use regulations authorized generally; purposes.

For the purpose of promoting the public health, safety, convenience and morals, and the general welfare of the community, the legislative body of cities having not less than 50,000 nor more than 70,000 inhabitants by the federal census of 1920, or any subsequent federal census, is hereby empowered to regulate and restrict by ordinance, the location of trades and industries and the location of buildings, designed for specific uses, and for said purposes, to divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section.

For such districts, regulations may be imposed by ordinance designating the uses for which buildings may or may not be erected or altered and designating the trades and industries that shall be excluded or subjected to special regulations. Such regulations shall be in accordance with a plan designed to lessen congestion on the public streets, to regulate the density of population, to promote the public health, safety, convenience and general welfare, and shall be made with reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values, and the direction of building development. (Priv. Acts 1923, Ch. 402, § 1)

Sec. 12.22. Height, area regulations authorized generally; purposes.

² **Cross reference**-Zoning of filling stations, § 2.1(55).
State law reference-Zoning generally, T.C.A. §§ 13-7-201 et seq.

CHATTANOOGA CITY CHARTER

Such legislative body may regulate by ordinance and limit the height and the bulk of the buildings hereafter erected, or hereafter altered as provided in the fifth section [section 12.25] hereof, and regulate and determine the percentage of land area to be devoted to yards, courts, and other open spaces, and for said purposes may divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this section. Such regulations shall be uniform for each class of buildings throughout each district, but the regulations in one or more districts may differ from those in another district.

Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements, and otherwise to promote the public safety, health, convenience, and the general welfare. Such regulations shall be further made with reasonable consideration to the character of the district, the character of the buildings then existing therein, and the value of the land therein, and the peculiar suitability of the district for particular uses, and with a further view to conserving the value of the buildings, stabilizing the value of land and encouraging the most appropriate use of land throughout such municipality, all for the purpose of promoting the public health, safety, convenience, and the general welfare. (Priv. Acts 1923, Ch. 402, § 2)

Sec. 12.23. Repealed. (Ord. No. 11309, §1, 08-22-02)

Editor's note-The repealed section dealt with recommendations of planning commission.

Sec. 12.24. Repealed. (Ord. No. 11309, §1, 08-22-02)

Editor's note- The repealed section dealt with changes in regulations

Sec. 12.25. Pre-existing uses and structures.

The lawful use of premises existing at the time of the adoption of an ordinance under the provisions of this Act [article], although such use does not conform to the provisions of such ordinance, may be continued; and the lawful use of a building existing at such time, although such use does not conform to the provisions of such ordinance, may be continued throughout the life of the building; provided, that no alteration thereof to a greater extent than fifteen per cent (15%) of the then value of such building, except those required or permitted by an ordinance adopted hereunder, are made therein; but if such nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of ordinance and regulations adopted under the authority of this Act [article].

When structural alterations greater in extent than fifteen per cent (15%) of the then value of the building are made in a building of nonconforming use, such building shall be altered in conformity with the provisions of ordinances and regulations adopted under the authority of this

PLANNING, ZONING AND DEVELOPMENT

Act [article], for the district in which such building is located, and thereafter the use of such building shall be in accordance with ordinances adopted hereunder.

When the boundary line of any such district divides a parcel of ground in common ownership at the time of the adoption of an ordinance under the provisions of this Act [article], nothing herein shall be construed to prevent the extension of the use existing on either portion of such parcel of ground, to the entire parcel, but for a distance of not greater than twenty-five (25) feet from such boundary line.

Nothing in this Act [article] shall be taken to prevent: (a) the erection of a building for which a permit shall have been issued previous to the passage of an ordinance under the provisions of this Act [article]; (b) the restoration of a building destroyed to the extent of not more than seventy-five per cent (75%) of its reasonable value, by fire, explosion, or other casualty, or act of God, or the public enemy, nor the continued occupancy or use of such building or part thereof after restored, which existed at the time of such partial destruction; (c) the restoration of a wall declared unsafe by the building inspector. (Priv. Acts 1923, Ch. 402, § 5)

CHATTANOOGA CITY CHARTER

Sec. 12.26. Advisory and appeals board.

The legislative body of such municipality may create a board whose duty it shall be to advise the mayor of such municipality or other officer having control over the enforcement of the provisions of an ordinance adopted under this Act [article], with reference to the proper enforcement and application of the provisions of such ordinance. Such board may be given power to hear appeals from the action of such building commissioner or other officer aforesaid, and determine the rights of such applicant. The decision of such board, however, shall be subject to review by the city council of such municipality. The board herein provided for may consist of the city planning commission, where such commission exists in any municipality, or any portion thereof as provided for by ordinance, such portion thereof to be selected by the mayor, by and with the consent of the legislative body of the municipality. (Priv. Acts 1923, Ch. 402, § 6)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 12.27. Penalties and enforcement.

The legislative body of such municipality may fix such penalty or fine for the violation of any ordinance adopted hereunder as it may be authorized to do by charter or the general law, to be enforced and collected as provided by charter or general law; and in addition, such municipality shall have power to file a bill to restrain such threatened violation or to abate it once initiated or carried on. (Priv. Acts 1923, Ch. 402, § 7)

Secs. 12.28 -- 12.37. Reserved.

CHAPTER III. PLATS AND SUBDIVISIONS

Sec. 12.38. Submission, approval required.

In all cities having a population of not less than 50,000 nor more than 70,000 by the federal census of 1920, or any subsequent federal census, all plans, plots or replots of land lying within the limits of such city, or for a distance of three (3) miles outside thereof, laid out in building lots, and streets, alleys, squares, parks, or portions of same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting upon any such square, park, street, alley, or boulevard, or adjacent thereto, or lying or being within the boundary of the said tract or parcel of land, and located within the limits of any such city, or for a distance of three (3) miles outside thereof, shall be submitted to the city council, or other legislative body having general charge and the supervision of the design, construction and maintenance of city streets; and all such plans, plots, or replots shall be approved by such city council or other legislative body, before they shall be tendered for record to the county register. Said plans, plots, or replots shall be examined by such board with a view of ascertaining whether such plans, plots, or replots conform to the general laws and ordinances relating to plans, plots, or replots within the city, and that streets, alleys, boulevards, parks and public ways or places shall conform to the general plan of the city, and not conflict or interfere with rights-of-way of streets, or alleys already

PLANNING, ZONING AND DEVELOPMENT

established. If such plans, plots, or replots shall conform to the laws of the state and ordinance of such city, and if they shall fall within the general plan for the extension of such city, as adopted by ordinance, then it shall be the duty of said board, or other legislative body, to endorse its approval upon the plan, plot, or replot submitted to it.

The disapproval of any such plans by said council, or other legislative body, shall be deemed a refusal of the proposed dedication shown thereon, but its approval shall be deemed an acceptance of the proposed dedication for public, or private use, as the case may be; but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedication parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement; and owners and purchasers shall be deemed to have notice of the public plans, maps and reports of such board, or body having charge of the design, construction and maintenance of the city streets, affecting such property within the jurisdiction of the cities of the class hereinbefore set out.

Where such city has a city planning commission, said plans, plots, or replots submitted to its city council, or other legislative body, for approval shall be first submitted by said council, or other legislative body, to said city planning commission for its recommendation, before said council, or other legislative body, shall note its approval or disapproval thereon. (Priv. Acts 1923, Ch. 405, § 1)

Sec. 12.39. Recording.

If any such plan, plot, or replot of land is tendered for registration in the office of a county register of any county in which any city of the above class may be situated, it shall be the duty of such county register to examine such plan, plot, or replot to ascertain whether the endorsement of the council, or legislative body provided for in the next preceding section, shall appear thereon. If it shall, and the plan, plot, or replot otherwise conforms to the provisions of law, he shall accept same for registration. If such endorsement does not appear thereon, the register shall refuse and decline to accept same for registration. Any failure to observe the provisions of this section, on the part of any county register, shall constitute a misdemeanor in office. (Priv. Acts 1923, Ch. 405, § 2)